

Program at Rutgers School of Law-Newark. I am certain that my colleagues will join me in paying tribute to this remarkable program.

TRIBUTE TO THE LATE TOM
TAKEHARA

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 23, 1999

Mr. MATSUI. Mr. Speaker, I rise today in tribute to Mr. Tom Takehara of Sacramento, California. A memorial service will be held for him in his hometown. I respectfully ask all of my colleagues to join with me in saluting a truly great citizen, father, and friend.

Mr. Takehara founded Takehara Landscape Inc. which grew to become one of the largest businesses of its kind in the Sacramento area. As a landscape contractor, he handled landscape duties at many of Northern California's most prominent public and private buildings.

As the past president of the California Landscape Contractors Association and an active Rotary Club member, Mr. Takehara earned a reputation for civic involvement. His membership in Bocho Doshi Kai and Wakayama Kenjin Kai, two Japanese American heritage organizations, is especially noteworthy.

Having grown up on a farm in Sacramento County, Mr. Takehara was well-versed in the strong work ethic associated with agriculture in Northern California. He was known for always working hard to build a successful business and to provide for his loving family.

During World War II, Mr. Takehara was forcibly interned with thousands of other Japanese Americans. Yet this social and legal injustice never prevented him for excelling in his chosen professional pursuits.

As a successful entrepreneur, he started a variety of enterprises before founding his own landscape construction business in Sacramento. Yet commerce wasn't Mr. Takehara's sole focus.

Family was also a major force in the life of Tom Takehara. He was married to his wife Toshi for 51 years. They had three children: Brian, Walton, and Denise. He is also survived by seven grandchildren.

Mr. Speaker, Tom Takehara led a unique life in Northern California. He will be remembered as a loving family man, successful entrepreneur, and a great citizen of Sacramento. I ask all of my colleagues to join with me in remembering him as he is eulogized today.

RULE 30 OF THE FEDERAL RULES
OF CIVIL PROCEDURE AND RES-
TORATION OF THE STENO-
GRAPHIC PREFERENCE

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 23, 1999

Mr. COBLE. Mr. Speaker, I rise to introduce legislation that will restore the stenographic preference for depositions taken in federal court proceedings. This bill is identical to legislation which I sponsored last term; and is similar to a bill authored by Senator GRASSLEY during the 105th Congress.

For 23 years, Rule 30 of the Federal Rules of Civil Procedure permitted the use of non-stenographic means to record depositions, but only pursuant to court order or the written stipulation of the parties. In December of 1993, however, the Chief Justice submitted a recommendation pursuant to the Rules Enabling Act that eliminated the old Rule 30 requirement of a court order or stipulation. The revision also afforded each party the right to arrange for recording of a deposition by non-stenographic means.

When representatives of the Judicial Conference testified on the subject in 1993, they could not provide the Subcommittee on Courts and Intellectual Property with a single justification for their recommendation. As a result, the Subcommittee unanimously approved legislation, H.R. 2814, to prevent implementation of the change. The full House of Representatives followed suit by passing the bill under suspension of the rules on November 3, 1993.

It is my understanding that the Senate Judiciary Subcommittee on Courts and Administrative Practice also held hearings on Rule 30 during the 103rd Congress. I believe the members who participated in those hearings received testimony which generated concerns about the reliability and durability of video or audio tape alternatives to stenographic depositions. Then and since, court reporters have complained of increased difficulty in identifying speakers, deciphering unintelligible passages, and reconstructing accurate testimony from "blank" passages when relying on mechanical recordings. In contrast, information was also submitted at this time which suggested that the stenographic method will become even more cost-effective in the future as a result of improvements in recording technology.

These findings from the 103rd Congress were confirmed in the 104th when the Subcommittee on Courts and Intellectual Property again conducted its own hearing on H.R. 1445, the precursor to the bill I am introducing today; and later, when the Committee on the Judiciary reported H.R. 1445 to the full House.

Mr. Speaker, I have never entirely understood why Rule 30 was changed in the first place. Like many others, I have found that experience is the best teacher; and it has been my experience that no one in my district was displeased with the application of the law prior to 1993. I visit my district frequently and maintain good relations with members of the bench and bar, and not one attorney or judge ever complained about the operation of Rule 30 to me before 1993.

I am pleased to continue my ongoing support for reinstating the pre-1993 law on Rule 30 by sponsoring this bill.

TRIBUTE TO JOEL RUCKER

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 23, 1999

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to Joel Rucker, a good friend of many years and a man who cares deeply about the future of the Northeast San Fernando Valley. During the time I have known Joel, I have had many opportunities to see firsthand his extraordinary dedication to the causes in which he believes. I can say without

hesitation that I have rarely met anyone as willing to make the time and effort on behalf of his community.

Joel has made a special point of working tirelessly to improve the economy of Pacoima and surrounding areas. For example, he played an invaluable role in helping my office coordinate an international job fair in 1995. It was Joel who first brought to my attention the need to provide local small businesses with tips on selling their products overseas. At that time Joel was President of the Pacoima Chamber of Commerce, a post he held with distinction for several years.

Joel has also served on the Board of Directors of San Fernando Valley Economic Alliance and is a member of the Minority Business Opportunity Commission of Los Angeles International Trade. He has become a forceful advocate for the economic interests of the Northeast San Fernando Valley.

To be sure, Joel is involved in a variety of organizations, including the Northeast Valley Health Corporation, the NAACP and the Valley Interfaith Council. He has somehow managed to combine running a successful business (Rucker's Mortuary) with many extracurricular activities.

I ask my colleagues to join me in saluting Joel Rucker, a deeply spiritual man who has dedicated his life to community service. His selflessness and sense of public duty inspire us all.

IN HONOR OF PETER BERRIO, DIS-
TINGUISHED COLOMBIAN—AMER-
ICAN VETERAN

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 23, 1999

Mr. MENENDEZ. Mr. Speaker, I rise today to recognize Peter Anthony Berrio for his courageous service on behalf of the United States during World War II. Mr. Berrio, the oldest surviving Colombian-American WWII veteran, was honored on November 19 by the governor of Quindio, in the city of Armenia, Colombia, Peter Berrio's place of birth. Unfortunately, I was unable to attend this event, but a representative of the U.S. Embassy in Colombia was there on behalf of all Americans thankful for Mr. Berrio's distinguished service.

Peter Berrio moved to the United States from Colombia in 1929 and served in the U.S. Army Air Force from 1942 to 1946, both in the Far East and in Europe. Mr. Berrio served as a gunner, and he also served as a "military mayor" in Italy after the war. By the time he left the service, he had reached the rank of Sergeant and received the Good Conduct Medal, World War II Victory Medal, and the Asiatic Pacific Campaign Medal. In 1951, Peter Berrio moved back to Colombia where he continues to live today.

It is important for us to remember the sacrifices made by our elders in the fight for freedom during WWII. The war was the defining event of the 20th century. Over 400,000 of our brave soldiers died during their service in WWII and millions more willingly put their lives on the line for their country.

I was both honored and touched to receive a letter from Edison Berrio, Mr. Berrio's son, about his father's accomplishments. I am

proud to be able to honor Peter Berrio's brave service, and I am also proud of Edison Berrio for remembering his roots and recognizing his father's impressive legacy. Edison is President of the New York and New Jersey Chapter of the Colombia National Coalition.

I am sure I speak for the entire Congress when I say we are all deeply indebted to Peter Berrio and the millions of other WWII veterans who fought so that we can enjoy the liberty, freedom, and prosperity we have as a nation today.

INTRODUCTION OF H.R. 768, THE
COPYRIGHT COMPULSORY LI-
CENSE IMPROVEMENT ACT

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 23, 1999

Mr. COBLE. Mr. Speaker, I am pleased to introduce the Copyright Compulsory License Improvement Act. This bill will improve the copyright compulsory license for satellite carriers of copyrighted programming contained on television broadcast signals by applying to such carriers the same opportunities and rules as their cable competitors. This competitive parity will lead to increased exposure of copyrighted programming to consumers who will pay lower prices for cable and satellite services which deliver programming to their homes. These lower prices will result from the choices consumers will have in choosing how they want their television programming delivered. Mr. Speaker, I know I speak for many of the Members in this House when I assert that creating competition in the video delivery market is the key to more choice and lower prices for our constituents.

This is a very dynamic time for the multi-channel video marketplace, particularly for the satellite industry. These satellite compulsory license is set to expire at the end of this year at a time when the industry enjoys a record number of subscribers. In the meantime, a federal court decision threatens to disconnect hundreds of thousands of satellite customers from their distant network signals. Additionally, several other legislative restrictions still prevent the satellite industry from competing with the cable television industry on an even playing field.

The Copyright Act of 1976 bestowed on cable television a permanent compulsory license which enables that industry to rebroadcast network and superstation signals to cable television viewers without requiring cable operators to receive the authorization of thousands of copyright owners who have an exclusive right to authorize the exploitation of their programs. The cable operators pay a set fee for the right to retransmit and the monies collected are paid to the copyright owners through a distribution proceeding conducted under the auspices of the United States Copyright Office.

In 1988, Congress granted a compulsory license to the satellite industry. Although the cable and satellite compulsory licenses have similarities, there are important differences which I believe prevent satellite from becoming a true competitor to cable. Technology has changed significantly since the cable and satellite compulsory licenses were created. In a

very short time, satellite carriers will be able to bring local programming through their services to viewers of that local market. The time has come to take a comprehensive look at the satellite compulsory license as it relates to the long-term viability and competitiveness of the satellite television industry. The satellite compulsory license is set to sunset in December of this year, and the Federal Communications Commission has reported time and again that in areas where there is no competition to cable, consumers are paying higher cable rates. We must act for our constituents to level the playing field in a manner that will allow both industries to flourish to the benefit of consumers.

To that end, the Copyright Compulsory License Improvement Act makes the following changes to the Satellite Home Viewer Act:

It reauthorizes the satellite compulsory license for five years.

It allows new satellite customers who have received a network signal from a cable system within the past three months to sign up for satellite service for those signals. This is not allowed today.

It provides a discount for the copyright fees paid by the satellite carriers.

It allows satellite carriers to retransmit a local television station to households within that station's local market, just like cable does.

It allows satellite carriers to rebroadcast a national signal of the Public Broadcasting Service.

In order to create parity for the above new opportunities for satellite carriers by reforming the license, there must be additional legislation to create corresponding regulatory parity between the satellite and cable industries, including must-carry rules, retransmission consent requirements, network non-duplication protection, syndicated exclusivity protection, and sports blackout protection. I am committed to working with Representative BILLY TAUZIN, Chairman of the Commerce Subcommittee on Telecommunications, Trade and Consumer Protection, and with Representative TOM BLILEY, Chairman of the full Commerce Committee, on legislation complementary to the provisions contained in this bill. Their leadership and partnership has been and will continue to be invaluable and necessary in guaranteeing true competition between the satellite and cable industries.

I also want to recognize the leadership and care that Senator ORRIN HATCH, Chairman of the Senate Committee on the Judiciary, has paid to the development of this important bill. We have worked together closely on its provisions and I know he is committed, as I am, to assuring fair competition through this legislation. I look forward to continuing our work together as our bills move through both bodies of the Congress.

Let me make clear that this bill is a compromise, carefully balanced to ensure competition. I believe it contains the balance necessary to allow this bill to become law this session and I urge all interested parties to join us in a constructive discussion of this very important legislation.

SECTION-BY-SECTION

SECTION 1. TITLE

The title of the bill is the "Copyright Compulsory License Improvement Act."

SECTION 2. LIMITATIONS ON EXCLUSIVE RIGHTS; SECONDARY TRANSMISSIONS BY SATELLITE CARRIERS WITHIN LOCAL MARKETS

Section 2 of the bill creates a new copyright compulsory license, found at Section 122 of Title 17 of the United States Code, for the retransmission of television broadcast programming by satellite carriers to subscribers located within the local markets of those stations. In order to be eligible for this compulsory license, a satellite carrier must be in full compliance with all applicable rules and regulations of the FCC, including any must-carry obligations imposed upon the satellite carrier by the Commission or by law.

Because the copyrighted programming contained on local broadcast programming is already licensed with the expectation that all viewers in the local market will be able to view the programming, the new Section 122 license is a royalty-free license. Satellite carriers must, however, provide local broadcasters with lists of their subscribers receiving local stations so that broadcasters may verify that satellite carriers are making proper use of the license. The subscriber information supplied to broadcasters is for verification purposes only, and may not be used by broadcasters for other reasons.

Satellite carriers are liable for copyright infringement and subject to the full remedies of the Copyright Act if they violate one or more of the following requirements of the Section 122 license.

First, satellite carriers may not in any way willfully alter the programming contained on a local broadcast station. Second, satellite carriers may not use the Section 122 license to retransmit a television broadcast station to a subscriber located outside the local market of the station. If a carrier willfully or repeatedly violates this limitation on a nationwide basis, then the carrier may be enjoined from retransmitting that signal. If the broadcast station involved is a network station, then the carrier could lose the right to retransmit any network stations. If the willful or repeated violation of the restriction is performed on a local or regional basis, then the right to retransmit the station (or, if a network station, then all networks) can be enjoined on a local or regional basis, depending upon the circumstances. In addition to termination of service on a nationwide or local or regional basis, statutory damages are available up to \$250,000 for each six-month period during which the pattern or practice of violations was carried out. Satellite carriers have the burden of proving that they are not improperly making use of the Section 122 license to serve subscribers outside the local markets of the television broadcast stations they are providing.

The Section 122 license is not limited to private home viewing, as is the Section 119 compulsory license, so that satellite carriers may use it to serve commercial establishments as well as homes. The local market of a television broadcast station for purposes of the Section 122 license will be defined by the FCC as part of its broadcast carriage rules for satellite carriers.

SECTION 3. EXTENSION OF EFFECT OF AMENDMENTS TO SECTION 119 OF TITLE 17, UNITED STATES CODE

Section 3 of the bill extends the expiration date of the current Section 119 satellite compulsory license from December 31, 1999 to December 31, 2004.

SECTION 4. COMPUTATION OF ROYALTY FEES FOR SATELLITE CARRIERS

Section 4 of the bill reduces the 27-cent royalty fee adopted last year by the Librarian of Congress for the retransmission of network and superstation signals by satellite